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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,271

09/28/2005

Masahiro Tada

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7590

09/08/2010

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EXAMINER

TSAL, H JEY

ART UNIT

PAPER NUMBER

2895

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/551,271</p>	<p>Applicant(s) TADA ET AL.</p>	
	<p>Examiner H.Jey Tsai</p>	<p>Art Unit 2895</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/H.Jey Tsai/
Primary Examiner, Art Unit 2895

Continuation of 11. does NOT place the application in condition for allowance because: Bruner at para. 46, figs. 3a-3f, performing a film-formation treatment by sputtering to seal the penetration hole under vacuum, hence, it clear that Bruner teaches performing a film-formation treatment by sputtering at a reduced pressure.

Murakami teaches at figs. 9F-9H, 3E, col. 4, lines 20-28, using sputtering metal 28 in vacuum or less than 10 torr to seal the penetration hole 59 or 27 and into the wiring layer (upper electrode) to connect to layer 30.

Cady teaches at fig. 1d, 3c, 4f, col. 2, lines 59-61, using sputter metal 17 to seal penetration hole 15 and into the wiring layer to connect to bias voltage.

Wolf teaches at vol. 1, pages 331-332, aluminum alloy including Al-Cu and Al-Si are more frequently used than pure aluminum in microelectronic application because they posses enhanced properties for interconnect requirement.

And, a combination of familiar elements according to know methods to yield predictable results is obvious. Agrizap, Inc. V. Woodstream Corp., 520 F.3d 1337, 86 U.S.P.Q. 2d 1110 (Fed. Cir. 2007).

Bruner teaches using sputtering aluminum for film-formation treatment in vacuum to seal the penetration hole, Murakami teaches using sputtering metal in vacuum to seal the penetration hole and into the wiring layer, Cady teaches using sputtering metal in vacuum to seal the penetration hole and into the wiring layer, Wolf teaches aluminum alloy including Al-Cu and Al-Si are more frequently used than pure aluminum in microelectronic application, Zurn teaches an electrostatic capacitive MEMS structure for driving a resonator (oscillator) and sealing penetration hole with metal. Schmid teaches means for driving oscillation are static electric or piezoelectric, hence the combination of Bruner, Murakami, Cady, Zurn and Schmid is proper. Therefore, it is clearly that the combination of Bruner, Murakami, Cady, Wolf Zurn and Schmid meets the doctrine of U.S. Supreme Court in KSR international v. Teleflex of "a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability". And, it is also clearly that the combination of Bruner, Murakami, Cady, Zurn and Schmid meets the doctrine of U.S. Supreme Court in KSR international v. Teleflex of "If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103". Also see MPEP §2143.

It is common sense that familiar items may have obvious uses beyond their primary purposes, and a person of ordinary skill often will be able to fit the teachings of multiple patents together like pieces of a puzzle. See KSR international v. Teleflex, US Supreme Court, 127 S.Ct. 1727 (2007). And, see Ball Aerosol v. Limited Brands, Inc., 555 F.3d 984, 89 U.S.P.Q. 2d 1870 (Fed Cir. 2009). Boston Scientific Scimed, Inc. v. Cordis Corp., 554 F.3d 982, 89 U.S.P.Q. 2d, 1704 (Fed. Cir. 2009)..